

The opinion in support of the decision being entered today was *not* written for publication and is *not* binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* ROBERT LESLIE VAN OOSTENBRUGGE,  
PAULUS GEORGE MARIA DE BOT AND  
ASTRID MATHILDA FERDINANDA DOBBELAAR

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Appeal 2007-0341  
Application 09/832,719  
Technology Center 2100

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Decided: July 16, 2007

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Before KENNETH W. HAIRSTON, JOSEPH F. RUGGIERO, and  
LANCE LEONARD BARRY, *Administrative Patent Judges*.

BARRY, *Administrative Patent Judge*.

ORDER REMANDING TO THE EXAMINER

I. STATEMENT OF THE CASE

A Patent Examiner rejected claims 1-20. More specifically, he rejected claims 9-11 and 19 under 35 U.S.C. § 102(e) as anticipated by U.S. Patent No. 6,784,900 ("Dobronsky") and claims 1-8, 12-18, and 20 under 35 U.S.C. § 103(a) as obvious over Dobronsky and U.S. Patent

No. 5,778,187 ("Montiero"). The Appellants appeal therefrom under 35 U.S.C. § 134(a). We have jurisdiction under 35 U.S.C. § 6(b).

## II. PRINCIPLES OF LAW

In an *ex parte* appeal, the Board "is basically a board of review — we review . . . rejections made by patent examiners." *Ex parte Gambogi*, 62 USPQ2d 1209, 1211 (Bd.Pat.App. & Int. 2001). To enable our review, copies of cited references are to be "placed in the application file . . . during the prosecution." M.P.E.P. § 707.05(a) (8th ed., rev. 4, Oct. 2005<sup>1</sup>). "To assist in providing copies of, or access to, references, the examiner should . . . [t]ype the citation of the references on form PTO-892, 'Notice of References Cited.'" *Id.*

## III. ANALYSIS

Here, although the Examiner relies on a definition from the "Microsoft Computer Dictionary Fifth Edition," (Answer 20), no copy of the definition appears in the application file. Such a copy is needed for our review of the Examiner's rejections. Because of the omission, "[t]he appeal is manifestly not ready for a decision on the merits." *Ex parte Braeken*, 54 USPQ2d 1110, 1112 (Bd.Pat.App. & Int. 1999).

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<sup>1</sup> We cite to the version of the Manual of Patent Examining Procedure in effect at the time of the Examiner's Answer.

#### IV. CONCLUSION

For the aforementioned reasons, we remand the application to the Examiner to furnish a copy of the aforementioned definition and for any further action not inconsistent with the views expressed herein. Although the definition can be furnished without providing a new examiner's answer, any subsequent answer that the Examiner chooses to submit should be self-contained with respect to all rejections and arguments; no prior answer or Office action should be referenced or incorporated therein. Similarly, although furnishing the definition does not necessitate a new brief, any subsequent brief submitted by the Appellants should be self-contained with respect to all arguments. No prior brief should be referenced or incorporated therein.

Because it is being remanded for further action, the application is a "special" application. M.P.E.P. § 708.01(D). Accordingly, it requires immediate action. Furthermore, the Board should be informed promptly of any action affecting status of the appeal (e.g., abandonment, issue, reopening prosecution).

#### REMANDED

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